

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
CLEVELAND DIVISION

UNITED STATES OF AMERICA,)	CRIMINAL NO.: 1:21-cr-226
)	
Plaintiff,)	
)	JUDGE PAMELA A. BARKER
vs.)	
)	
)	
DAVIS LU,)	
)	
Defendant.)	

**NOTICE OF JOINT STIPULATION CONCERNING
DEFENDANT'S TESTIMONY**

Now come the parties, by and through undersigned counsel, and hereby provide Notice of their joint stipulation concerning Defendant's prospective testimony in the above-captioned matter. Specifically, defense counsel has informed the Government that Defendant may elect to testify at trial and a portion of his testimony may constitute opinion evidence as contemplated in F.R.E. 702. Should the Court find that the conditions set forth in F.R.E. 702 are satisfied and allow Defendant to provide opinion testimony, the parties have agreed that the requirements of Fed. R. Crim. P. 16(b)(1)(C)(ii) will be satisfied provided that defense counsel furnish the Government with a statement signed by Defendant that complies with F.R.E. 702(b)(1)(C)(iii) by 6:00 p.m. on the evening before Defendant would testify.¹ The parties further agree that said disclosure will satisfy any notice or related obligations set forth in Fed. R. Crim. P. 16 and will not itself serve as a basis for objecting to or precluding Defendant from testifying.

Since Defendant's testimony may consist of facts and opinions, the parties further agree to abide by the procedures approved by this Court as follows: the examining attorney shall make

¹ The parties acknowledge that the Court retains the ultimate discretion concerning the admissibility and scope of the testimony and evidence introduced at trial.

a clear demarcation when eliciting each opinion from the Defendant and request that the court provide a cautionary instruction to the jurors at the first elicitation of an opinion from Defendant. The parties understand that the Court shall instruct the jury at the conclusion of trial with the Sixth Circuit Pattern Jury Instructions 7.03 and 7.03A.

Respectfully submitted,

/S/ Eric C. Nemecek

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice was filed by CM/ECF on the 14th day of February, 2025, which will send a notification of such filing electronically to the following: Brian Deckert, Assistant United States Attorney; Daniel Riedl, Assistant United States Attorney; and Candina Heath, Assistant United States Attorney.

Respectfully submitted,

/s/ Eric C. Nemecek

ERIC C. NEMECEK

IAN N. FRIEDMAN

Counsel for Defendant